

## United States Senate

WASHINGTON, DC 20510-2503

February 15, 2007

The Honorable John D. Rockefeller IV  
Chairman  
Senate Select Committee on Intelligence  
Washington, D.C. 20510

Mr. Chairman,

In light of the recent Department of Defense (DoD) Inspector General (IG) report clearing the Office of the Under Secretary of Defense for Policy (OUSD(P)) of any unlawful or unauthorized activity, I consider this part of Phase II concluded. I recommend that we release a letter similar to our "Able Danger" letter, in which we briefly comment on areas of disagreement with the DoD IG's findings or that we express our differences in Majority and Minority views. The Senate Armed Services Committee (SASC) has already held an open hearing on this report and has declared its intention to conduct an inquiry into the "inappropriateness" of the office's activities. Since the OUSD(P) is not a part of the Intelligence Community but rather a policy office within the DoD, as the IG's report states, the SASC has the appropriate jurisdictional claim. After nearly four years of looking backward on this issue, it is time for the Committee to consider our inquiry closed and return to intelligence oversight matters.

Mr. Chairman, beyond these jurisdictional issues, I believe that if we were to pursue a nebulous and subjective inquiry into "inappropriate intelligence activities" we would assuredly draw this Committee backward into a bitter, partisan debate. Furthermore, if our Committee were to adopt the line of argument that considers the OUSD(P)'s activities as "inappropriate intelligence activities," it would also weaken the credibility of our investigative functions, precisely because this nebulous charge hinges upon the subjective term "inappropriate" (an undefined term in the report) along with an expansion of the term "intelligence activity" that encompasses activities performed throughout the government on a daily basis. When the Inspector General, who spent over one year on this investigation, was asked directly by our staff what the definition of the terms inappropriate and intelligence activities were, he could not provide an answer.

I recommend that you read the transcript of our staff meeting with him the day the report was issued. Staff asked him nearly a dozen ways over the span of an hour to define these terms. He finally described "inappropriate" as "something outside the normal duties of an office" and said OUSD(P)'s activities became "intelligence activities" when office personnel wrote down their conclusions. If those definitions are correct, then almost every official we know conducts "inappropriate intelligence activities."

I am deeply troubled by the IG's assertion that the recommendations of a policy entity can be described as intelligence activities. If the Committee accepts this premise, it will open up Pandora's Box to include activities of agencies and departments throughout the government that offer an opinion on intelligence, including those of Congress and especially those of our Committee.

Mr. Chairman, consider for a moment the implications of the IG's loose use of these terms and the IG's charge that OUSD(P) produced "intelligence assessments" and that its assessments were "disseminated intelligence products." When one of our designees reads intelligence at the behest of his/her Member and then synthesizes that information and presents his/her views to that policy maker on the intelligence, something that happens here daily, then according to the IG's use of terminology, our designees are engaged in producing and disseminating intelligence which is an "intelligence activity." We both know that the memos our staff write are not disseminated intelligence products.

If we accept this haphazard use of the term intelligence activity, our oversight would have to expand geometrically into areas that you and I both know are certainly not intelligence activities. Everyone looking at intelligence, criticizing intelligence and commenting on intelligence to policy makers would then be engaged in intelligence activities. In our case, following the IG's reasoning in its report, since our designees do not vet their opinions with the consensus of the Intelligence Community before presenting them to their Members, our own staff would be repeatedly engaging in "inappropriate" behavior.

Mr. Chairman, please do not misunderstand my concerns. I am not a defender of the OUSD(P) and I believe that the quality of some of the office's work was lacking, but I will defend their right and responsibility to question the Intelligence Community's judgments, because by doing so I am defending the rights and responsibilities of the Committee as well.

Our staff has a duty to analyze critically the Intelligence Community's judgments and the responsibility to tell us when they disagree with them. We both agree with the 9/11 Commission that "(t)he Congress cannot play its proper role as a check and balance of the actions of the Executive if its oversight Committees are weak." Accepting the IG's unilateral redefinition of intelligence activities would be irresponsible and would endanger our own oversight abilities.

As you have stated publicly on numerous occasions since the start of this Congress, we need to return this Committee to more constructive oversight and bi-partisan cooperation. We were both frustrated during Phase II as each side traded barbs and talking points that in the end achieved very little oversight. Since then, however, you and I have made significant progress in moving the Committee back to a more non-partisan course, which I hope we can continue.

Mr. Chairman, we have an awesome responsibility as the leaders of the Committee to oversee the Intelligence Community to ensure they are doing everything they can to keep us safe. We have taken some important steps forward in recent years, but I hope we can both agree that much remains to be done. It's 2007 and we still are unable to bring Usama Bin Laden to justice, we are still unable to get clear answers to important questions about Iran and North Korea's nuclear programs, and we have not solved some of the root problems that led to the 9/11 and Iraq WMD intelligence failures. The Senate Select Committee on Intelligence has much work to do and little time to get it done. If we embark on a renewed "Feith" investigation, however, we will spend our valuable time poisoning the Committee and we will have little real progress to show for it. Real progress on intelligence reform can only be achieved if you and I can effectively lead the Committee through the partisan currents that surround the remaining parts of Phase II. Let's lighten our burden and let Senator Levin handle whatever he thinks needs to be done with the Feith issue, as he has vowed to do.

Let's move forward, not backward at this juncture, and work together to achieve real intelligence oversight and reform.

Yours,

A handwritten signature in black ink, appearing to read "Chris Bond", written in a cursive style.

Christopher S. Bond